

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

MATTHEW REYNOLDS,

Plaintiff,

v.

WILLERT MFG. CO., LLC,

Defendant.

CIVIL ACTION NO. _____

NOTICE OF REMOVAL

Defendant Willert Manufacturing Company, LLC (“Willert”) hereby removes this civil action from the Court of Common Pleas of Berks County, Pennsylvania, Case Number 21-00882, to the United States District Court for the Eastern District of Pennsylvania. This Court has jurisdiction under 28 U.S.C. §§ 1332, 1441 and 1446.

In further support of this Notice of Removal, Willert states as follows:

PROCEDURAL HISTORY

1. On February 4, 2021, Matthew Reynolds (“Plaintiff”) acting through his counsel, Steven T. Auerbach, filed this action in the Court of Common Pleas of Berks County, Pennsylvania. A true and correct copy of the Complaint is attached hereto as Exhibit A.

2. On February 23, 2021, the Complaint was served on Defendant Willert. Defendant Willert acknowledges receipt of service.

3. Exhibit A constitutes all of the process, pleadings, and orders served on Willert in this case, and it is attached here pursuant to 28 U.S.C. § 1446(a).

TIMELINESS OF REMOVAL

4. Defendant Willert’s removal notice is timely under 28 U.S.C. § 1446(b)(1) because it is filed within thirty (30) days after service of the Complaint upon Defendant Willert.

VENUE

5. The Court of Common Pleas of Berks County, Pennsylvania is located within the Eastern District of Pennsylvania. 28 U.S.C. § 118(a). This Notice of Removal is therefore properly filed in this Court pursuant to 28 U.S.C. §§ 1441(a) and 1446(a).

BASIS FOR REMOVAL JURISDICTION

6. This Court has original jurisdiction over this case based on diversity of citizenship pursuant to 28 U.S.C. § 1332 because the parties are citizens of different states and the amount in controversy exceeds \$75,000.

7. The citizenship of an LLC is determined by the citizenship of its members. *Lincoln Ben. Life Co. v. AEI Life, LLC*, 800 F.3d 99, 105 (3d Cir. 2015); see also *Zambelli Fireworks Mfg. Co. Inc. v. Wood*, 592 F.3d 412, 420 (3d Cir. 2010).

8. Defendant Willert is a Limited Liability Corporation (“LLC”) formed under the laws of Missouri. Willert’s sole member is Willert Home Products, Inc. (“WHP”).

9. A corporation such as WHP is a citizen of the state where it is incorporated and of the state where it has its principal place of business. *Lincoln Ben. Life Co.*, 800 F.3d. at 104.

10. Principal place of business refers to the place where the corporation’s high level officers direct, control, and coordinate the corporation’s activities. *Hertz Corp. v. Friend*, 559 U.S. 77, 92-93 (2010). This is often called the corporation’s “nerve center.” *Id.*; see also *Johnson v. SmithKline Beecham Corp.*, 724 F.3d 337, 347 (3d Cir. 2013). The nerve center should, in practice, be the place where the corporation maintains its headquarters. *Hertz*, 559 U.S. at 92-93.

11. WHP is a Missouri Corporation.

12. WHP’s principal place of business is in Missouri. WHP’s headquarters are located in St. Louis, Missouri and WHP’s officers and directors direct, control, and coordinate the corporation’s activities from St. Louis, Missouri.

13. Therefore, since WHP is a citizen of Missouri, Defendant Willert is a citizen of Missouri for the purposes of diversity jurisdiction in this action.

14. Plaintiff is a resident of the Commonwealth of Pennsylvania. *See* Compl. ¶ 7.

15. There is complete diversity between the parties because Defendant Willert is a citizen of Missouri and Plaintiff is a citizen of Pennsylvania.

16. The amount in controversy in this case exceeds \$75,000. In the Prayer for Relief, Plaintiff seeks 1) compensatory damages in excess of \$50,000 for past and future *pecuniary losses* and 2) additional compensatory damages in excess of \$50,000 for *non-pecuniary losses* such as pain and suffering, emotional distress, indignity, loss of enjoyment of life, loss of self-esteem, and humiliation. *See* Compl. “Prayer for Relief,” ¶¶ (d), (e). In addition, Plaintiff seeks punitive damages, and reasonable attorney fees. *See* Compl. “Prayer for Relief,” ¶¶ (f), (g).

17. Thus, this Court has jurisdiction over all parties and claims pursuant to 28 U.S.C. § 1332(a), and the Complaint is properly removed pursuant to 28 U.S.C. §§ 1441 and 1446.

NOTICE TO STATE COURT AND PLAINTIFF

18. Counsel for Defendant certifies that pursuant to 28 U.S.C. § 1446(d), copies of this Notice of Removal will be filed with the Clerk of the Court of Common Pleas of Berks County, Pennsylvania, and served on Plaintiff promptly.

WHEREFORE, Defendants respectfully request that this Action be removed and hereinafter proceed in the United States District Court for the Eastern District of Pennsylvania.

Dated: March 12, 2021

Respectfully submitted,

WILLERT MANUFACTURING CO. LLC

By its attorney,

/s/ Daniella Gordon

Daniella Gordon (PA ID No. 201477)

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CERTIFICATE OF SERVICE

I, Daniella Gordon, hereby certify that on March 12, 2021, I caused a true and correct copy of the foregoing Notice of Removal to be served upon Plaintiff's counsel Steven Auerbach by email at Auerbach.Steven@gmail.com, and by first class mail at:

Steven Auerbach
Law Office of Steven T. Auerbach
822 Montgomery Ave., Suite 210
Narberth, PA 19072

/s/ Daniella Gordon

Daniella Gordon